

**PLANNING AND ZONING COMMISSION
MINUTES
SPECIAL MEETING/PUBLIC HEARING/GENERAL MEETING
November 17, 2009**

Place: Room 206
Town Hall

TIME: 7:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Conze (arrived at 7:45 p.m.), Spain, Grimes, Hutchison, Riccardo, Voigt

ENVIRONMENTAL PROTECTION COMMISSION MEMBERS ATTENDING FOR A
PORTION OF THE SPECIAL MEETING:
Hillman, Kenyon, Rohr, Tone, Shapiro, Flaherty

STAFF ATTENDING: Ginsberg, Keating, Jacobson
RECORDER: Syat
FILMED: Channel 79 (Executive Session not filmed)

At 7:00 p.m., Vice-Chairman Spain read the first item on the Special Meeting Agenda:

Executive Session with Town Counsel and Environmental Protection Commission (EPC).
To discuss pending litigation.

Mr. Hutchison made a motion to go into Executive Session with Town Counsel and the EPC to discuss pending litigation. That motion was seconded by Ms. Grimes and unanimously approved. Mr. Conze arrived at about 7:45 pm. Mr. Fox and Mr. Louizos met with the members on this matter until 7:55 p.m. On this matter, no motions were made, and no actions taken. The EPC members left the room, and the Planning & Zoning Commission moved onto the next agenda item.

Mr. Conze then read the next agenda item:

Executive Session with Town Counsel.
To discuss pending litigation.

Town Counsel met with the Planning & Zoning Commission to discuss one item in pending litigation. No motions were made, and no actions were taken.

At about 8:25 pm., the Special Meeting was then adjourned. At that time, Mr. Conze then read aloud the first public hearing agenda item on the regular meeting agenda:

PUBLIC HEARING

Continuation of Public Hearing regarding Land Filling & Regrading Application #231, VR Associates, LLC, 305-309 Middlesex Road. Proposing to raze the existing structures and construct a new single-family residence with associated filling, regrading, stormwater management and wetlands mitigation and perform related site development activities. The subject property is located on the north side of Middlesex Road, directly across from the intersection of Middlesex Road and Old Parish Road, and is shown on Assessor's Map #9 as Lots #71 & #72 in the R-1 Zone. *PUBLIC*

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HEARING ORIGINALLY OPENED ON: OCTOBER 6, 2009. THE HEARING OF NOVEMBER 17 WILL BE IMMEDIATELY CONTINUED TO NOVEMBER 24, 2009, AND NO TESTIMONY WILL BE PRESENTED OR ACCEPTED ON NOVEMBER 17TH.

Mr. Conze noted that this public hearing will be continued to November 24, 2009 at 8 pm in room 206 of Town Hall. He then read the second public hearing agenda item:

Continuation of Public Hearing regarding Special Permit Application #258, Cava Wine Bar & Restaurant, LLC, d/b/a Cuvee, 1077 Boston Post Road. Proposing to establish a new restaurant in a portion of the first floor space formerly occupied by Ann Taylor Loft. The subject properties are on the northwest side of Boston Post Road, approximately 550 feet northeast of its intersection with Leroy Avenue, and are shown on Assessor's Map #73 Lots #7 and #42 with shared parking on Lots #40 and #41, in the CBD & PR (portion of shared parking lot) Zones. *PUBLIC HEARING OPENED ON OCTOBER 27, 2009. DEADLINE TO CLOSE HEARING: DECEMBER 1, 2009.*

Attorney Bruce Hill was present on behalf of the property owners (Pear Partners, LLC) as well as on behalf of the proposed tenant, Cuvee. Mr. Hill noted that the restaurant name, Cuvee, is a "working title" and may change. He said that the proposed use is a new restaurant with wine bar. Modifications made since the last meeting are the elimination of some proposed outdoor dining, and further study on the parking issue. He displayed a revised floor plan, and noted that Neil Olinsky and Dave Sullivan of Milone and MacBroom, Inc. are present tonight to explain their parking findings. Mr. Hill said that the revised floor plan eliminates one row of outdoor dining and eliminates a proposed interior back hallway. There will be up to 65 seats indoors, an additional ten seats for the wine bar, and forty (40) exterior seats. Mr. Hill noted that a parking study was submitted and took into account lunchtime use, which is being requested as part of this application. The parking study bears out the appropriateness for the lunchtime use.

Mr. Neil Olinsky, of Milone and MacBroom, Inc., then explained the submitted parking study. He said that they looked at other restaurants and sales data. There is also a need to take into account employee parking. The parking demand for the proposed restaurant is 35-40 vehicles. He said that as the evening progresses, the restaurant demand increases, but there is more vacancy in the parking lot. He does not foresee a negative parking impact. Mr. Olinsky explained that they did not account for existing on-street parking or parking in nearby municipal lots. Ms. Grimes then asked if the Panera Bread parking lot was considered as part of this study. Mr. Olinsky replied that it was not. Because parking data were based on the number of checks generated during an evening, Ms. Riccardo asked if parties of four usually come in more than one vehicle, but get one check. Mr. Olinsky explained that they get one check on average, but could come in more than one vehicle. Mr. Hill noted that there is some cushion on parking here.

Mr. Hill mentioned that there would be some change to the two doorways, a need for signage, and a treatment for the alleyway to provide lighting/greenscape (planters). That will all be done later. The proposed outdoor tables will be closer to the building than originally proposed. Additional kitchen ventilation is needed to address fumes/odor. Mr. Hill then submitted a copy of the chimney plan, and noted that the chimney would not be visible from Boston Post Road. He is also requesting a waiver from the Stormwater Management (Drainage) requirements found in Section 880 of the Darien Zoning Regulations.

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Mr. Spain asked about the exterior detail of the building. Mr. Hill responded that a supplemental application will be needed. He said that there would be a different treatment of both doors (the one on the front and the one on the side). They need to go before the Architectural Review Board then return to the Planning and Zoning Commission. Ms. Grimes asked whether there will be portable heaters outside associated with the outdoor dining. Mr. Hill said that this has yet to be determined, but is a possibility. Mr. Ginsberg noted that venting requirements by the Commission usually include a water wash system or equivalent. Mr. Hill responded that this would be appropriate. There being no other questions or comments from Commission members or the general public, the public hearing on this matter was then closed.

GENERAL MEETING

At about 8:45 p.m., Mr. Conze read the first general meeting agenda item:

Modification of Coastal Site Plan Review #238, Land Filling & Regrading Application #210, Andy Glazer, 135 Five Mile River Road.

Request to modify plans for area near the Five Mile River shoreline.

Mr. Andy Glazer of Glazer Construction presented his revised "Site Improvement Plan" received in the P&Z office on November 13, 2009. Mr. Ginsberg explained the Commission's concerns with the retaining walls in the original approval. Mr. Glazer then showed the proposed plantings and the proposed walls on the revised plan. He noted that terracing will be needed. The stone used within the wall will be indigenous. The proposed plantings will help buffer the wall. He said that it is a difficult, dramatic site. Mr. Spain asked if he planned to buffer the proposed retaining walls. Mr. Glazer responded that he did. He noted that the proposed trees are 7'-8' in height and they will be softly lit. He, too, was concerned about the massiveness of the wall. Mr. Spain noted that this is basically a request to modify Conditions B and C of the Commission's October 7, 2008 Adopted Resolution to comply with these proposed revised plans. Ms. Grimes made a motion to approve the revised plans as submitted, and therefore to clarify and adapt Conditions B and C to comply. That motion was seconded by Mr. Spain and approved by a vote of 4-0, with Mr. Voigt and Ms. Riccardo abstaining, since they were not on the Commission at the time of the original approval.

Mr. Conze then read the next agenda item:

Amendment of Business Site Plan #171-C, 1063 Boston Post Road, CBD Zone.

Proposed new office tenant for a portion of the second floor above Panera Bread.

Mr. Ginsberg explained the request as outlined in the November 11, 2009 one-page letter from Tom Golden. He said that the request is to have a hedge fund office take a portion of the existing second floor office space. He mentioned that William Raveis Realty/Premier Homes now occupies a portion of the second floor, and Panera Bread is on the first floor. A tentative floor plan was submitted with Mr. Golden's letter, but Mr. Ginsberg noted that this plan is conceptual only. Mr. Hutchison made a motion to approve the request as submitted. That motion was seconded by Ms. Grimes, and was unanimously approved.

Mr. Conze then read the next agenda item:

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Business Site Plan #258, Day Street Development, LLC, 1015 Boston Post Road/13 Grove Street.

Request to construct the project in two phases.

Mr. Hutchison recused himself from the discussion, and left the room to avoid the appearance of a conflict. Mr. Ginsberg explained the request from Mr. Albert Orlando of Day Street Development to divide his previously approved project into two phases. Mr. Orlando noted that he will construct the new building at 13 Grove Street first, and put in the various particulars, such as parking and underground utilities in Phase 1. He reviewed the submitted plan with the Commission. The existing building at 1015 Boston Post Road will stay in place during Phase 1, and it may be rented to a commercial tenant. Mr. Conze asked what work will be done to that building. Mr. Orlando responded that they are now taking care of the inside.

Mr. Ginsberg noted that there will be two accesses for Phase 1—one on Grove Street and one on Day Street. He explained the need to have the sidewalks open as long as possible during the construction process. He referred to the plans and showed the five proposed temporary parking spaces for the pink building at 1015 Boston Post Road to be established as part of Phase 1. Mr. Ginsberg noted the need for anti-tracking pads to be used on both accesses for Phase 1. Mr. Voigt then asked about the timing of the project. Mr. Orlando responded that the first building will be constructed in 7-8 months. He would presumably work soon thereafter on the second building. He noted that the project was approved in June 2008. Mr. Voigt then asked about the parking of any necessary construction vehicles in Phase 2. Mr. Orlando noted that they would be reversing the current situation. He will have to discuss that with the Commission when the time gets closer. He suggested the possibility of just installing a wearing course on the driveway as part of Phase 1. Mr. Spain asked if Mr. Orlando could isolate the parking. Mr. Orlando responded that this is feasible.

Mr. Spain noted that in the original approval, phasing was not anticipated. Mr. Conze mentioned the nearby on-street parking. Mr. Spain asked Mr. Orlando to come in with a schedule to be reviewed by the Commission prior to any construction starting on Phase 2. Mr. Orlando noted that this review and Phase 2 could occur as late as 2011. Mr. Conze agreed with Mr. Spain on the importance of returning before the Commission for approval prior to starting work on Phase 2. Mr. Spain then made a motion to approve the request as shown on the submitted plan (entitled, "Commercial Development prepared for Day Street Development, LLC, 13 Grove Street 1015 Boston Post Road, received Nov. 16, 2009 with hand annotations), with the requirement that Mr. Orlando return to the Commission for review and action prior to the start of Phase 2. That motion was seconded by Ms. Grimes, and was approved by a vote of 5-0.

Mr. Hutchison then returned to the room, and Mr. Conze read the next agenda item:

Modification of Land Filling & Regrading Application #207-B, Shanahan, 58 Sunswyck Road.
Proposed modification to previously approved filling and regrading plan for driveway.

Mr. Ginsberg explained the request to widen the driveway which was the subject of a previous Land Filling & Regrading application. He referred to the one-page letter submitted from Wilder Gleason and the associated plan. He mentioned that the most affected neighbor had been notified, and they had supported the project. Mr. Spain asked about the electric gate shown on the plan in the driveway near the house. He questioned whether someone who could not get past the gate would

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have to back down the driveway. Mr. Conze noted that there might be enough room for such a vehicle to turn around, to avoid having to back down the driveway. Ms. Grimes made a motion to approve the modification as submitted. That motion was seconded by Mr. Hutchison and unanimously approved.

Any Other Business (requires two-thirds vote of Commission)

Mr. Ginsberg said that he had one item to present under “Other Business”—modifications to the previously approved plans for the LaRock property at 2546 Boston Post Road. Mr. Spain made a motion to go into “Other Business” for that one item. That motion was seconded by Ms. Grimes and was unanimously approved.

Mr. Ginsberg explained the recent letter received from Stephen Hamson on behalf of the LaRocks at 2546 Boston Post Road. He reminded Commission members that last year, they approved a pool and terrace on the subject property, which is adjacent to Holly Pond. Mr. Ginsberg noted that three changes are being requested—a wider terrace, a new proposed fieldstone retaining wall, and a new five foot high fence with gates to replace an existing fence. He showed the proposed “Site Plan Option 1” to the Commission, illustrating the location of each of these items, and noting that the proposed work is not any closer to Holly Pond than that previously approved, except for the wall, which extends slightly beyond the pool. Mr. Hutchison made a motion to approve the modifications as shown on the submitted plans, and as described in Mr. Hamson’s letter. That motion was seconded by Mr. Spain, and was approved by a vote of 4-0, with Mr. Voigt and Ms. Riccardo abstaining, since they were not on the Commission when this application was first heard and decided.

There being no other business, the meeting was adjourned at 9:10 P.M.

Respectfully submitted,

Jeremy B. Ginsberg
Planning & Zoning Director

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